

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GEORGE LAVELL FROST,)	
)	
Petitioner,)	CASE NO. C05-2109-TSZ-MJB
)	(CR01-325-TSZ)
v.)	
)	REPORT AND RECOMMENDATION
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

Petitioner is a federal prisoner who was sentenced on August 31, 2005 to 18 months of imprisonment for eight violations of conditions of probation/supervised release. Dkt. #52 in Case No. CR01-325-TSZ. Petitioner has filed a *pro se* motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Dkt. #1 in Case No. C05-2105-TSZ. The motion was referred to the undersigned United States Magistrate Judge on December 30, 2005. Dkt. #4.

A review of the docket sheet in Case No. CR01-325-TSZ reveals that petitioner's direct appeal of his sentence is pending before the Ninth Circuit Court of Appeals.¹ Dkt. #49 in Case No. CR01-325-TSZ. Therefore, petitioner's § 2255 motion is premature. *See United States v. Deeb*, 944 F.2d 545, 548 (9th Cir. 1991) (holding that district courts should not entertain

¹Petitioner also acknowledges in the current § 2255 motion that his appeal is still pending. Dkt. #1 at 2.

1 collateral attacks while a direct appeal is pending). Accordingly, I recommend that petitioner's §
2 2255 motion be dismissed without prejudice. A proposed Order accompanies this Report and
3 Recommendation.

4 DATED this 5th day of January, 2006.

5
6 

7
8 MONICA J. BENTON
9 United States Magistrate Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25